

# State of South Dakota

## SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

660D0392

### SENATE BILL NO. 90

Introduced by: Senators Hutmacher and Dunn (Jim) and Representatives Brooks, Broderick,  
and Sebert

1 FOR AN ACT ENTITLED, An Act to establish license requirements for well pump installers  
2 and well repairers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46-2A-1 be amended to read as follows:

5 46-2A-1. The provisions of this chapter apply to any application for:

6 (1) A permit to appropriate water;

7 (2) An amendment of an existing permit or license, including change in use of water or  
8 change in place of use or diversion point of water;

9 (3) A reservation for future use;

10 (4) A permit for flood control;

11 (5) A well driller license;

12 (5A) A well pump installer license;

13 (6) Reinstatement of a permit;

14 (7) A vested right claim; and

15 (8) Other cases as may be specified by statute.

16 Section 2. That § 46-2A-3 be amended to read as follows:

1        46-2A-3. In all cases except applications for a well driller license or a well pump installer  
2        license, the chief engineer shall mail a copy of the recommendation to the applicant and, if the  
3        recommendation is to approve or defer the application, a copy of the newspaper notice to be  
4        published and the times when it is to be published. If the recommendation is to deny the  
5        application, the applicant within twenty days of the date the recommendation was mailed shall  
6        state in writing ~~if he~~ whether the applicant intends to oppose the recommendation at a hearing  
7        before the water management board. Failure to submit a statement of intent to oppose a  
8        recommendation to deny to the chief engineer constitutes a withdrawal of the application. If the  
9        applicant chooses to oppose the recommendation, the chief engineer shall provide ~~him~~ the  
10       applicant notice of the hearing to be published pursuant to the provisions of § 46-2A-4. Any cost  
11       of publication shall be borne by the applicant.

12       Section 3. That § 46-2A-4 be amended to read as follows:

13       46-2A-4. Except in the case of an application for a well driller license or a well pump installer  
14       license, if a recommendation is to approve or defer an application or if an applicant has filed a  
15       petition to oppose a recommendation to deny an application, the applicant shall publish notice  
16       of the application and recommendation at least once a week for two successive weeks in one  
17       official newspaper in each county where the water will be diverted or used or project works will  
18       be located. The official newspaper shall be selected by the chief engineer and shall be a  
19       newspaper designated as an official newspaper pursuant to § 7-18-3. The second publication  
20       shall be at least twenty days before the first day of the water management board meeting at which  
21       the matter is noticed to be heard. No application for a permit, license or amendment may be  
22       considered and approved by the board until proof of all required publications has been filed with  
23       the chief engineer. The notice, which shall be provided by the chief engineer to the applicable  
24       newspapers, shall include the following, as applicable:

25       (1)    The name and address of the applicant;

- 1       (2)   A brief description of the project, including, where applicable, the proposed place or  
2           places of use of the water or facilities, including the point of diversion, the amount of  
3           water to be used and the purpose for which the water or facility is to be used;
- 4       (3)   A brief statement describing the recommendation and the reasons for the  
5           recommendation;
- 6       (4)   A statement that any interested person who intends to participate in the hearing shall  
7           file a petition to oppose or support the application and that the petition shall be filed  
8           with the chief engineer and applicant at least ten days before the published date for  
9           hearing;
- 10      (5)   A statement that a petition to oppose or support an application may be informal, but  
11           shall be in writing and shall contain the following:
  - 12           (a)   A statement describing the petitioner's interest in the application;
  - 13           (b)   The reasons for the petitioner's opposition to or support for the application;
  - 14                   and
  - 15           (c)   The signature and mailing address of the petitioner or ~~his~~ the petitioner's legal  
16                   counsel-;
- 17      (6)   A statement telling where copies of the recommendation, application or other  
18           information may be obtained;
- 19      (7)   The time when and the place where the application will be considered by the board;
- 20      (8)   A statement that the recommendation of the chief engineer is not final or binding upon  
21           the board and is subject to the approval of the board after it reaches a conclusion  
22           based on facts at the public hearing;
- 23      (9)   A statement that the time of hearing will be automatically extended for at least twenty  
24           days upon written request of the applicant or any person who has filed a petition to  
25           oppose or support the application and a statement that any such request by the

1 applicant or person filing a petition shall be made at least ten days before the  
2 published date for hearing; and

3 (10) A statement that if the applicant does not contest the recommendation of the chief  
4 engineer and no petition to oppose the application is received, the chief engineer shall  
5 act on the application pursuant to ~~his~~ the chief engineer's recommendation and no hearing  
6 may be held before the board, unless the chief engineer makes a finding that an  
7 application, even if uncontested, presents important issues of public policy or public  
8 interest that should be heard by the board.

9 Section 4. That § 46-2A-13 be amended to read as follows:

10 46-2A-13. In the case of an application for a well driller license or a well pump installer  
11 license, the chief engineer may issue the license. If ~~his~~ the chief engineer's recommendation is to  
12 deny the license or to defer ~~his~~ the decision on the license, ~~he~~ the chief engineer shall mail a copy  
13 of ~~his~~ the recommendation to the applicant with a statement of the reasons for ~~his~~ the  
14 recommendation and the time and place of the hearing before the water management board on  
15 ~~his~~ the recommendation, in accordance with the provisions of chapter 1-26.

16 Section 5. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Any person who performs work for compensation in the repair of wells or as a well pump  
19 installer shall obtain a well driller's license issued pursuant to § 46-6-9 or a well pump installer's  
20 license issued pursuant to section 6 of this Act before conducting or contracting for such work.

21 Section 6. That chapter 46-6 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 The Water Management Board shall issue a well pump installer license to any applicant who  
24 meets the requirements specified in this section. The fee for the license is fifty dollars, and fifty  
25 dollars shall be paid each calendar year for renewal of the license. The fee shall be paid to the

1 Department of Environment and Natural Resources and deposited by the state treasurer in the  
2 state general fund. The license shall be issued pursuant to the procedures contained in chapter  
3 46-2A. No license may be issued unless the applicant is experienced and knowledgeable in well  
4 pump installation methods. The Water Management Board shall promulgate rules pursuant to  
5 chapter 1-26 establishing well pump installation qualifications.

6 Section 7. That § 46-6-9.1 be amended to read as follows:

7 46-6-9.1. The chief engineer may initiate an action before the water management board to  
8 revoke the license of any well driller or well pump installer upon refusal by the driller to properly  
9 complete any well or well pump installation in accordance with rules governing well construction  
10 or well pump installation or upon violation of this title, or any rule, ~~regulation~~ or order  
11 promulgated ~~thereunder~~ pursuant to this title. Any action for the revocation of a well driller's or  
12 well pump installer's license shall comply with the provisions of § 1-26-19. A well driller or well  
13 pump installer whose license has been revoked may not apply for a new license sooner than six  
14 months after the effective date of the revocation.